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In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	CC Docket No. 96-128

REPLY

Frontier Corporation, on behalf of its local exchange and long distance subsidiaries, hereby submits this reply to the comments filed in response to the Notice of Proposed Rulemaking, released June 6, 1996, in the above captioned proceeding.

One common theme among many of the parties is:

1) Marginal costs: compensation (which involves, here, the transfer payments from carriers to non-carriers) should be uniformly based on a marginal cost standard,

2) Definitions and Information Digits: that fraud will be pervasive under the Commission's proposed scheme because it fails, among other things, to provide:

a) a clear definition of what constitutes a "pay telephone,"[1] and

b) require such "pay telephones" be connected to the local network so as

[1]As it currently stands, any telephone could be called a pay telephone (even if there is no coin slot, and even if it is in a location that is inaccessible to the public 24 hours a day). Is a wall phone in a doctor's office a "pay phone?" Is a deck phone in a Washington law office reception area a "pay phone?" Without a clear definition, there is no guidance that excludes such phones from compensation.

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to outpulse identifying information digits with each call, and

3) <u>Caller Pays</u>: the best choice for any compensation recovery scheme should be charges to the originating caller (as will be shown below, even Southwestern Bell concedes this principle), and

4) <u>LEC Administered Set Use Fee</u>: that the second best, least intrusive and most efficient means of collecting these charges is via an LEC administered system, as Ameritech currently has in place and which APCC previously supported in CC Docket No. 91-35. Moreover, given a choice between the two, a LEC administered "set use" charge is more flexible alternative to a LEC administered carrier pays charge because it allows carriers to make these charges explicit to customers. Such a system can be implemented immediately, thus no interim compensation system is required.

Disturbingly, comments filed by some parties reveals an undercurrent of greed and anticompetitive objectives. For example, APCC argues that the Commission should abandon any cost standard and require that compensation <u>exceed</u> costs. The BOC Coalition seeks recovery of charges that have no bearing to marginal costs. Finally, regarding administration, AT&T and Sprint, having voluntarily (and presumably in their own self-interests) invested in an expensive scheme for compensating PSPs directly on a usage sensitive basis, seek to impose those inadequate expensive systems on others to drive up their costs -- even though such a scheme is fatally vague, open for abuse and fraud, and otherwise flawed. Even Sprint concedes in its own comments that direct payments for a multi-billion carrier its size (10% of the market) is inefficient for its size because it requires more than 1/3 of the checks it cuts to be less than $10.[2] Many time more burdensome, and inefficient, on a proportionate basis, would such a system be for the hundreds of

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[2] <u>See</u>, Sprint at 15-16.

carriers that are less than a tenth or a hundredth of Sprint's size. The Commission must reject any direct payment scheme from IXCs to PSPs. It is simply non-sensical, and grossly inefficient. Moreover, it would not be in the best interest of the small PSPs, for whom it would be silly for them to have to deal with more than 514 long distance carriers for receiving payment, when they need only deal with receiving one consolidated check (or bill credit) from each LEC it connects to.

I. Only Marginal Costs May Be Recovered

As noted by a number of commenting parties, the Commission correctly adopted the marginal cost standard as determining the proper level of "fair compensation."[3] Moreover, there is widespread agreement that the compensation standard should be uniformly applied to all calls, not simply calls made over "IXCs."[4]

The Commission should, however, reject all pleas for prescribed compensation that exceed the marginal costs -- not only would it be illegal, it would be uneconomic. The statutory payphone compensation scheme, which involves welfare transfers from carriers to non-carriers (i.e., to PSPs), must be of the most limited scope. It should not be allowed to form the foundation of an APCC/BOC proposed welfare

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[3] See, e.g., Sprint, MCI, LDDS/Worldcom, TRA, Excel, Comptel Cable and Wireless, and AT&T (TSLRIC which is a marginal cost-type standard based on forward looking costs).

[4] See, e.g., AT&T at 10; APCC at 9, Frontier at 6-10.

system to support inefficient suppliers and fraudulent operators.[5]

If a PSP cannot make money from its other sources of revenues,[6] plus the marginal cost-based compensation prescribed by the Commission, then that PSP should not be in business, period. As the Court of Appeals recently stated: the goal of the agency "is not to protect competitors."[7] Similarly, it is not the goal of the agency to protect inefficient payphone owners and operators, whether they are ILECs or APCC members. "The failure of inefficient firms is to be expected in a competitive market, not deplored as a sign that the market has failed." Id. at 15. Long run marginal costs provide for full recovery of all relevant costs of providing the origination of calls from payphones.[8] Moreover, the Commission has endorsed

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[5]APCC at 11 makes the ridiculous suggestion that "cost is not an issue; the statute requires 'fair' compensation which embraces more than cost recovery." [If "cost is not an issue," then fair compensation can also, by APCC's calculus, be "less than cost recovery."] Similarly, the affidavit found attached to RBOC Coalition Comments does not even resemble a cost study. Its "cost analysis" is really a lost revenue analysis; having nothing to do with the costs of providing services. See, Geppert Affidavit at 9, found as attachment to RBOC Coalition Comments. [e.g., it states "The net impact of recurring revenue less business unit costs (including a reasonable return on the fully embedded asset base) is the amount of revenue necessary for the business unit to generate through per-call compensation"] Revenue, net revenue, or lost revenue, plays no role in any cost calculation, period!

[6]E.g., selling off the privilege of being the presubscribed 0+, 0-, and 1+ carrier, and advertising.

[7]Report and Order, WATS Related and Other Amendments of Part 69 of the Commission's Rules, 59 Rad. Reg. 2d (P&F) 1418, 1434-35 (1986) cited at Competitive Telecommunications Association, v FCC, Case No. 95-1168, decided July 5, 1996, DC Circuit, slip op. at 15.

[8]In the long run, all costs are variable, thus "fixed costs" do not exist in the long run for any firm.

marginal costs as the proper standard for pricing for such services.[9] So called "market based" pricing schemes based on the premiums in commissions paid for the unique privilege of being the dial-1, 0-, or 0+ carrier, must be outrightly rejected because they are not related to any determination of fair compensation for unequal 10XXX or 1-800 dialing.[10]

In sum, the Commission has no choice but to adopt its marginal cost standard, as originally proposed in the NPRM at notes 54 and 64, and apply it to all calls, including calls carried by the BOCs.[11]

II. Fraud Should Be of Utmost Concern to the Commission

The Commission must make protection against fraud an overriding priority for any compensation scheme. As non-carriers, the PSP s are outside the Commission's jurisdiction and can easily rip off the system. With the high compensation rates that APCC and the BOC's propose, fraud is no less than invited by the compensation scheme.

Even short of fraud, money can be made "legitimately" with the right

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9 See, e.g., Amendment of Part 69, 8 FCC Rcd 3114 (1993).

10 Such non-sensical, and self-serving, suggestions were disengenuously proposed by the so-called "Strategic Policy Research" at 33 (attached to BellSouth Comments). A true market test for setting 10XXX or 1800 dialing would require that blocking be allowed and determining the lowest price that all carriers would be willing to pay for the right to have their codes unblocked (i.e., the market clearing price). Frontier is not willing to pay anything for this right, thus the "market price" for the use of these telephones is zero.

11 See, Frontier Comments at 20-21; also, MCI at 11.

compensation levels and rate structures. For example, with 800 rates typically less than 20 cents a minute, and a compensation rate of 25 or 40 cents per call, a PSP can easily (and legally) "dial for dollars" by subscribing to an 800 number, and dialing their own 800 number over and over again, making calls of less than one minute. Each time such a call is made, the PSP will net as much as 20 to 25 cents. At the rate of 30 calls an hour, that would be 6 to 7.5 dollars an hour, per phone. This money making scheme would be perfectly legal under the APCC/BOC proposed schemes.

Also, if the Commission fails to define what constitutes a pay telephone, a party could claim that any telephone is a pay telephone. For example, the telephone at the guards desk of the entrance to the FCC is arguably a pay telephone, as is the telephone on the secretary's desk in room 500 of 1919 M Street. Does a pay telephone need to have a coin slot? Must it be accessible 24 hours a day to the public at large? Can any call be made over a pay telephone, or could it be limited to 800 subscriber calls?

This is a serious dilemma. The Commission needs a concrete definition for what constitutes a pay telephone. Such a definition should require that the telephone be available 24 hours a day to the public at large, and allow any sent paid, 800, collect, or other type of call to go through. Anything less is not a pay telephone, for the purposes of compensation.

Moreover, a pay telephone should be required to be connected to COCOT lines that outpulse information digits identifying it as a pay telephone. This commonsense view is widely accepted by many commenters.[12]

III. Caller Pays at Carrier's Discretion Is the First Best

Caller pays requires that the default would allow the PSP to charge the originating end user, via either coin or charge card, for using the payphone. This would assure that the party who chose to place the call at the payphone and received its benefit, would assume the costs of that decision. A number of parties outrightly support caller pays,[13] while others, such as Southwestern Bell, endorse the principle.[14] The only objections raised for the caller-pays default is that it would be "confusing" to callers.[15] But this objection is incorrect under the Frontier proposed carrier pays option. Under the Frontier proposal, every carrier has the right to arrange with the payphone providers for suppression of the coin requirement in exchange for that carrier's paying those compensation charges on calls. [This would be a true market test of whether the value carrier's place on payphone use exceeds the prescribed compensation rate.] Thus, if AT&T believes that coin deposit would confuse its customers, then AT&T can pay the compensation on some or all calls

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[12]See, e.g., MCI at 9-10, Sprint at 16, Frontier at 23.

[13]See, e.g., LDDS Worldcom at 11, Frontier at 10-12.

[14]See, Southwestern Bell at 8-9 ["Since the end user receiving the call makes the decision whether to answer the payphone to accept the call, the end users and not the carrier delivering the call, should be responsible for paying for the call, either by depositing coins or by alternately billing the call."]. This principle equally applies to support caller pays, i.e., it is the party who chooses to use the payphone who should pay.

[15]See, e.g., AT&T at 12.

over 800 number or 10XXX number designated by AT&T.

IV. LEC Administered Collection and Payout Is The Only Second Best

If caller pays is rejected, then the Commission must seek to minimize the transaction costs associated with any "set use fee" or "carrier pays" system. As explained in the Frontier Comments, the only way to eliminate the ambiguity and minimize the transaction costs is to adopt the Ameritech/Southwestern Bell model where the LEC pays compensation to each payphone operator connected to their network, and then, in turn, collects from carriers connected to their networks compensation on those calls that they pass on to those carriers.[16] This view is widely accepted.[17] It should be noted that LEC administration is compatible with either carrier pays or set use fee systems. Moreover, and contrary to Sprint's claims,[18] with widely deployed SS7 signaling, the originating LEC is given accurate indication of when calls are completed where the IXC properly forwards the proper SS7 message.[19]

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[16]See, Frontier at 12-16.

[17]See, e.g., Caltel at 4-5, C&W at 9-10, Comptel.

[18]Sprint at note 9. [The problem with Ameritech's original proposal is that it chose to estimate call completion after waiting a certain period of time, rather than wait for the call complete signal on SS7.]

[19]The SS7 address complete message is know as the ACM message, and the answer message is known as the "ANM" message, which are forwarded back to the originating switch on every call. before the voice path is completed. To the extent that these messages may be incompatible with certain carrier's platforms, the carrier should be allowed to provide a corrective adjustment (like a PIU is done today) to adjust for any

As demonstrated in Frontier's comments, each LEC does have the financial interest in every payphone originated call to administer the collection and payout system.[20] Ameritech,[21] like every other LEC should be, is willing to carry out this obligation. Moreover, the marginal costs of full LEC administration is close to zero because each LEC will already be dispatching a payment (or credit) to each PSP under any carrier pays or set-use plan.

In contrast the financial burdens of each IXC implementing a system for paying each PSP is onerous and inefficient. C&W estimates the costs of exceeding $1 million per carrier.[22] This burden will be the same for every one of the more than 500 carriers who purchase access, regardless of size. Thus, it is not surprising that AT&T and Sprint seek to (or at least are comfortable with) driving up their rival's costs by forcing these unnecessary costs on them.[23] Ironically, when it comes to cost control and inconvenience, AT&T has a double standard where it seeks to limit compensation on 800 calls because of the limitations of its current systems.[24]

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complete vs incomplete calls.

[20] See, Frontier at 17-20.

[21] The Ameritech general proposal (Ameritech at 8-12) that suggest that each PSP bill for these charges is silly given that Ameritech has all the information and billing relationships today to collect and disburse these amounts -- as it is already doing today for its own payphone operation. However, Ameritech's willingness to expand its current system to all PSPs is welcome, but with all PSP's compensation for payphone connected to Ameritech clearing through Ameritech, as discussed above. Ameritech at 10-11.

[22] See, C&W at 10-11.

[23] AT&T at 12-13, Sprint at 4-14.

[24] AT&T at 13-16.

Finally, there should be no interim system because it is unneeded. Given that Ameritech and Southwestern Bell can collect and bill for usage based compensation today, they should make these capabilities (software and/or switch capabilities) immediately available to other LECs to fully implement.

V. Conclusion

For the proposals set forth in the Frontier comments and these replies should be adopted, for the reasons set forth.

Respectfully submitted,
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I, Roy L. Morris, hereby certify that I have caused to be served July 15, 1996, a true copy of the forgoing Frontier brief by postage-prepaid first class mail to the parties on the attached service list.

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Attachment A

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